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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No.

2012-299

13 **DAWN ELLEN YALEY**  
14 **20800 Lake Chabot Rd.**  
15 **Apt. 310**  
16 **Castro Valley, CA 94546**

**ACCUSATION**

17 **Registered Nurse License No. 551069**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
22 Consumer Affairs.

23 2. On or about January 19, 1999, the Board of Registered Nursing issued Registered  
24 Nurse License Number 551069 to Dawn Ellen Yaley (Respondent). The Registered Nurse  
25 License was in full force and effect at all times relevant to the charges brought herein and will  
26 expire on May 31, 2012, unless renewed.

27 **JURISDICTION**

28 3. This Accusation is brought before the Board of Registered Nursing (Board),  
Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent  
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an  
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the  
5 Nursing Practice Act.

6 5. Section 2761 of the Code states:

7 "The board may take disciplinary action against a certified or licensed nurse or deny an  
8 application for a certificate or license for any of the following:

9 "(a) Unprofessional conduct . . .

10 6. Section 2762 of the Code states:

11 "In addition to other acts constituting unprofessional conduct within the meaning of this  
12 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
13 chapter to do any of the following:

14 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
15 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
16 administer to another, any controlled substance as defined in Division 10 (commencing with  
17 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
18 defined in Section 4022.

19 "(b) Use any controlled substance as defined in Division 10 (commencing with Section  
20 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
21 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to  
22 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
23 ability to conduct with safety to the public the practice authorized by his or her license.

24 "(c) Be convicted of a criminal offense involving the prescription, consumption, or  
25 self-administration of any of the substances described in subdivisions (a) and (b) of this section,  
26 or the possession of, or falsification of a record pertaining to, the substances described in  
27 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
28 thereof.

1       "(d) Be committed or confined by a court of competent jurisdiction for intemperate use of  
2 or addiction to the use of any of the substances described in subdivisions (a) and (b) of this  
3 section, in which event the court order of commitment or confinement is prima facie evidence of  
4 such commitment or confinement.

5       "(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any  
6 hospital, patient, or other record pertaining to the substances described in subdivision (a) of this  
7 section."

8       7. Code section 4060 provides, in pertinent part, that no person shall possess any  
9 controlled substance, except that furnished upon a valid prescription/drug order.

10       8. Health and Safety Code section 11173(a) states, in pertinent part, that no person shall  
11 obtain or attempt to obtain controlled substances, or procure or attempt to procure the  
12 administration of or prescription for controlled substances by fraud, deceit, misrepresentation or  
13 subterfuge.

14       9. Health and Safety Code section 11170 provides that no person shall prescribe,  
15 administer, or furnish a controlled substance for himself or herself.

16       10. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess  
17 any controlled substance in Schedule II, subdivision (d), without a prescription.

18       11. Health and Safety Code section 11550, in pertinent part, makes it unlawful for any  
19 person to use or be under the influence of any controlled substance in Schedule II (Health and  
20 Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules III-V,  
21 except when administered by or under the direction of an authorized licensee.

22       12. Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
23 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
24 licensee or to render a decision imposing discipline on the license.

25       13. Section 118, subdivision (b), of the Code provides that the expiration of a license  
26 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
27 within which the license may be renewed, restored, reissued or reinstated.

28

14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

## DRUGS

15. Hydrocodone with Acetaminophen (“Dilaudid”) is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(J) and a dangerous drug as designated by Business and Professions Code section 4022, used for pain relief.

16. Oxymorphone is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(N) and a dangerous drug as designated by Business and Professions Code section 4022, used for pain relief.

17. Oxycodone is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M) and a dangerous drug as designated by Business and Professions Code section 4022, used for pain relief.

18. Hydrocodone is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(I) and is a dangerous drug per Code section 4022, used for moderate to severe pain relief.

FIRST CAUSE FOR DISCIPLINE

(ILLEGALLY OBTAIN OR POSSESS CONTROLLED SUBSTANCES)

19. Respondent is subject to disciplinary action under Code section 2761(a) on the grounds of unprofessional conduct, as defined by Code sections 2762(a), and/or section 4060, and Health and Safety Code sections 11377 and/or 11173(a) in that while on duty as a registered nurse at San Mateo General Hospital, San Mateo, California, Respondent illegally obtained and/or possessed controlled substances as follows:

20. Patient F.G. On or about May 15, 2006 at 1:16 p.m., Respondent withdrew four tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient F.G. Patient F.G.'s physician had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). However, Respondent documented a verbal order for two Hydrocodone/Acetaminophen (5mg/500mg) to-go upon

1 discharge. Respondent failed to document administration or disposition of the four tablets of  
2 Hydrocodone/Acetaminophen (5mg/500mg).

3 21. Patient L.J. On or about May 15, 2006 at 5:55 p.m., Respondent withdrew four  
4 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient L.J. Patient L.J.'s physician  
5 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
6 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
7 account for its disposition.

8 22. Patient E.O. On or about May 15, 2006 at 6:50 p.m., Respondent withdrew four  
9 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient E.O. Patient E.O.'s physician  
10 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
11 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
12 account for its disposition.

13 23. Patient M.H. On or about May 15, 2006 at 6:50 p.m., Respondent withdrew four  
14 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient M.H. Patient M.H.'s physician  
15 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
16 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
17 account for its disposition.

18 24. Patient J.G. On or about May 16, 2006 at 11:36 p.m., Respondent withdrew four  
19 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient J.G. Patient J.G.'s physician  
20 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
21 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
22 account for its disposition.

23 25. Patient Z.R. On or about May 25, 2006 at 12:05 p.m., Respondent withdrew two  
24 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient Z.R. Patient Z.R.'s physician  
25 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
26 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
27 account for its disposition.  
28

1       26. Patient J.C. On or about May 25, 2006 at 12:19 p.m., Respondent withdrew three  
2 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient J.C., who had died over one  
3 hour earlier, at 11:00 p.m. Patient J.C.'s physician had given a verbal order for  
4 Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to document administration or  
5 wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or account for its disposition.

6       27. Patient C.S. On or about May 28, 2006 at 4:32 p.m., Respondent withdrew four  
7 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient C.S. Patient C.S.'s physician  
8 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
9 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
10 account for its disposition.

11       28. Patient T.F. On or about May 31, 2006 at 5:46 p.m., Respondent withdrew two  
12 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient T.F. Patient T.F.'s physician  
13 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
14 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
15 account for its disposition.

16       29. Patient R.L. On or about June 12, 2006 at 2:47 p.m., Respondent withdrew two  
17 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient R.L. Patient R.L.'s physician  
18 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
19 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
20 account for its disposition.

21       30. Patient D.S. On or about June 12, 2006 at 5:14 p.m., Respondent withdrew two  
22 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient D.S. Patient D.S.'s physician  
23 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
24 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
25 account for its disposition.

26       31. Patient J.M. On or about June 12, 2006 at 5:47 p.m., Respondent withdrew two  
27 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient J.M. Patient J.M.'s physician  
28 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to

1 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
2 account for its disposition.

3 32. Patient A.M. On or about June 17, 2006 at 5:08 p.m., Respondent withdrew two  
4 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient A.M. Patient A.M.'s physician  
5 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
6 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
7 account for its disposition.

8 33. Patient A.M. On or about June 28, 2006 at 11:51 p.m., Respondent withdrew two  
9 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient A.M. Patient A.M.'s physician  
10 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
11 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
12 account for its disposition.

13 34. Patient R.D. On or about July 2, 2006 at 4:16 p.m., Respondent withdrew two tablets  
14 of Hydrocodone/Acetaminophen (5mg/500mg) for patient R.D. Patient R.D.'s physician had not  
15 given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
16 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
17 account for its disposition.

18 35. Patient N.R. On or about July 4, 2006 at 8:31 p.m., Respondent withdrew two tablets  
19 of Hydrocodone/Acetaminophen (5mg/500mg) for patient N.R. Patient N.R.'s physician had not  
20 given any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
21 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
22 account for its disposition.

23 36. Patient V.R. On or about July 4, 2006 at 10:39 p.m., Respondent withdrew two  
24 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient V.R. Patient V.R.'s physician  
25 had not given any orders for Hydrocodone/Acetaminophen (5mg/500mg), except for a note in the  
26 discharge summary. Respondent failed to document administration or wastage of the  
27 Hydrocodone/Acetaminophen (5mg/500mg), or account for its disposition.  
28

1           37. Patient R.L. On or about July 18, 2006 at 7:03 p.m., Respondent withdrew two  
2 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient R.L. Patient R.L.'s physician  
3 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
4 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
5 account for its disposition.

6           38. Patient H.M. On or about July 19, 2006 at 9:46 p.m., Respondent withdrew one  
7 tablet of Hydrocodone/Acetaminophen (5mg/500mg) for patient H.M. At 10:42, Respondent  
8 withdrew two additional tablets of Hydrocodone/Acetaminophen (5mg/500mg). There was a  
9 physician's order for one Hydrocodone/Acetaminophen (5mg/500mg). A nurse other than  
10 Respondent charted administration of one tablet in the patient's chart. Respondent failed to  
11 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg) that she  
12 withdrew, or account for its disposition.

13           39. Patient L.R. On or about July 19, 2006 at 10:43 p.m., Respondent withdrew two  
14 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient L.R. Patient L.R.'s physician  
15 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
16 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
17 account for its disposition.

18           40. Patient M.G. On or about July 19, 2006 at 10:56 p.m., Respondent withdrew two  
19 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient M.G. Patient M.G.'s physician  
20 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
21 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
22 account for its disposition.

23           41. Patient M.L. On or about July 24, 2006 at 6:38 p.m., Respondent withdrew two  
24 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient M.L. At 10:38 p.m.  
25 Respondent withdrew an additional two tablets of Hydrocodone/Acetaminophen (5mg/500mg).  
26 Patient M.L.'s physician had not written any orders for Hydrocodone/Acetaminophen  
27 (5mg/500mg). Respondent failed to document administration or wastage of the  
28 Hydrocodone/Acetaminophen (5mg/500mg), or account for its disposition.



1           42. Patient J.S. On or about July 25, 2006 at 5:40 p.m., Respondent withdrew two tablets  
2 of Hydrocodone/Acetaminophen (5mg/500mg) for patient J.S. Patient J.S.'s physician had not  
3 written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
4 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
5 account for its disposition.

6           43. Patient A.G. On or about July 25, 2006 at 10:36 p.m., Respondent withdrew two  
7 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient A.G. Patient A.G.'s physician  
8 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
9 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
10 account for its disposition.

11           44. Patient K.S. On or about July 26, 2006 at 1:07 p.m., Respondent withdrew two  
12 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient K.S. Patient K.S.'s physician  
13 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
14 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
15 account for its disposition.

16           45. Patient T.T. On or about July 26, 2006 at 6:35 p.m., Respondent withdrew two  
17 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient T.T. Patient T.T.'s physician  
18 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
19 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
20 account for its disposition.

21           46. Patient R.M. On or about July 26, 2006 at 9:12 p.m., Respondent withdrew two  
22 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient R.M. Patient R.M.'s physician  
23 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
24 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
25 account for its disposition.

26           47. Patient J.M. On or about July 26, 2006 at 11:24 p.m., Respondent withdrew two  
27 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient J.M. Patient J.M.'s physician  
28 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to

1 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
2 account for its disposition.

3 48. Patient Y.P. On or about August 4, 2006 at 7:29 p.m., Respondent withdrew two  
4 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient Y.P. Patient Y.P.'s physician  
5 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
6 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
7 account for its disposition.

8 49. Patient M.L. On or about August 4, 2006 at 10:16 p.m., Respondent withdrew two  
9 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient M.L. Patient M.L.'s physician  
10 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
11 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
12 account for its disposition.

13 50. Patient D.G. On or about August 13, 2006 at 4:50 p.m., Respondent withdrew two  
14 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient D.G. Patient D.G.'s physician  
15 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
16 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
17 account for its disposition.

18 51. Patient M.S. On or about August 20, 2006 at 7:23 p.m., Respondent withdrew two  
19 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient M.S. Patient M.S.'s physician  
20 had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to  
21 document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or  
22 account for its disposition.

23 52. Patient M.G. On or about August 21, 2006 at 4:42 p.m., Respondent withdrew two  
24 tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient M.G. At 7:23 p.m. Respondent  
25 withdrew two additional tablets of Hydrocodone/Acetaminophen (5mg/500mg). Patient M.G.'s  
26 physician had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg).  
27 Respondent failed to document administration or wastage of the Hydrocodone/Acetaminophen  
28 (5mg/500mg), or account for its disposition.

53. Patient N.R. On or about August 21, 2006 at 4:43 p.m., Respondent withdrew two tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient N.R. At 7:03 p.m. Respondent withdrew two additional tablets of Hydrocodone/Acetaminophen (5mg/500mg). Patient N.R.'s physician had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or account for its disposition.

54. Patient J.S. On or about August 21, 2006 at 6:53 p.m., Respondent withdrew three tablets of Hydrocodone/Acetaminophen (5mg/500mg) for patient J.S. Patient J.S.'s physician had not written any orders for Hydrocodone/Acetaminophen (5mg/500mg). Respondent failed to document administration or wastage of the Hydrocodone/Acetaminophen (5mg/500mg), or account for its disposition.

## SECOND CAUSE FOR DISCIPLINE

(FALSIFY, OR MAKE GROSSLY INCORRECT, GROSSLY INCONSISTENT, OR  
UNINTELLIGIBLE ENTRIES IN ANY PATIENT RECORD)

55. Respondent is subject to disciplinary action under Code section 2761(a) on the grounds of unprofessional conduct, as defined by Code section 2762(e), in that while on duty as a registered nurse at San Mateo General Hospital, San Mateo, California, Respondent falsified, made grossly incorrect, grossly inconsistent, or unintelligible entries in hospital and patient records, as alleged above in paragraphs 20 through 54.

### THIRD CAUSE FOR DISCIPLINE

(ILLEGAL USE OF CONTROLLED SUBSTANCES)

56. Respondent is subject to disciplinary action under Code section 2761(a) on the grounds of unprofessional conduct, as defined by Code section 2762(b), in that on or about February 12, 2010, Respondent tested positive for Oxymorphone, Oxycodone and Hydrocodone.

#### FOURTH CAUSE FOR DISCIPLINE

(UNPROFESSIONAL CONDUCT)

57. Respondent is subject to disciplinary action under section 2761(a) in that she acted unprofessionally as alleged above in paragraphs 20 through 56.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 551069, issued to Dawn Ellen Yaley;
2. Ordering Dawn Ellen Yaley to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: November 8, 2011

  
for LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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